

## ROY F. WILSON

JUNE 26, 1951.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BYRNE of New York, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany H. R. 796]

The Committee on the Judiciary, to whom was referred the bill (H. R. 796) for the relief of Roy F. Wilson, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The amendment is as follows:

Page 1, line 6, strike out "\$336.17" and insert in lieu thereof "\$330.25".

The purpose of the proposed legislation is to pay to Roy F. Wilson, of Burlington, Iowa, \$330.25 in full settlement of all claims against the United States for travel allowance from Paris, France, to Burlington, Iowa, incident to his discharge from the Army of the United States on November 23, 1946.

#### STATEMENT OF FACTS

It appears that Roy F. Wilson of Burlington, Iowa, was born in Canada of parents who were United States citizens, and was himself a United States citizen. On September 19, 1939, he enlisted in the Canadian Army, thereby losing his United States citizenship (54 Stat. 1169; 8 U. S. C. 801c). He was discharged from the Canadian Army on or about September 1, 1942, in London, England, in order that he might enlist in the United States Army, and on September 1, 1942, he did so enlist. On the same date he was repatriated as a United States citizen, taking the oath of allegiance before the American consul in London. He was honorably discharged from the United States Army in Paris, France, on November 23, 1946, in the grade of private. Mr. Wilson states that upon his discharge he was advised by the military authorities that because of his enlistment in the Canadian Army he had lost his United States citizenship and, therefore, was not entitled

to a travel allowance from Paris to Burlington, Iowa. His original discharge certificate stated that he was not a United States citizen. A corrected certificate was issued on December 10, 1947, to rectify the error. After his discharge he proceeded at his own expense to London, England, where he was issued an American passport by the American Embassy. The record does not disclose how he traveled from Paris to a French channel port, or what he paid for such travel. It appears that he obtained transportation across the Channel to Newhaven, England, without cost to him and that he paid \$3.50 for transportation from Newhaven to London. While there were at that time transports sailing from England to the United States no space was available thereon for about 3 months. He therefore booked passage by air from London to New York for himself and his minor son (whose mother later came to the United States), and left England by a commercial plane at his own expense (\$356.70 for himself and his son) on December 24, 1946. He states that he was ordered to leave England within 30 days after his arrival in that country and for that reason he had no alternative other than to proceed to the United States by air.

The Department of the Army, in its report dated June 18, 1951, states:

It is clear that under the act of August 2, 1946, *supra*, the claimant was legally entitled to a travel allowance of 5 cents a mile for his land transportation between Paris, France, and Burlington, Iowa, and to transportation in kind and subsistence en route for the sea travel involved. As above stated, the travel allowance for the land travel between Paris and Burlington was allowed by the General Accounting Office on April 25, 1950 (Certificate No. 1840970).

The cost of Mr. Wilson's travel from Chicago to Burlington (\$5.92), however, was included in the amount of \$53.65 paid to the claimant under Certificate No. 1840970 dated April 25, 1950, and therefore should be deducted from the proposed award of \$336.17, which would leave \$330.25.

Therefore, your committee has amended the bill in accordance with the suggestion of the Department of the Army, and recommends favorable consideration of the bill as so amended.

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DEPARTMENT OF THE ARMY,  
Washington 25, D. C., June 18, 1951.

HON. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,*  
*House of Representatives.*

DEAR MR. CELLER: Reference is made to your letter enclosing a copy of H. R. 796, Eighty-second Congress, a bill for the relief of Roy F. Wilson, and requesting a report on the merits thereof.

This bill would authorize and direct the Secretary of the Treasury "to pay, out of any money in the Treasury not otherwise appropriated, to Roy F. Wilson, of Burlington, Iowa, the sum of \$336.17, in full settlement of all claims against the United States for travel allowance from Paris, France, to Burlington, Iowa, incident to his discharge from the Army of the United States on November 23, 1946."

Roy F. Wilson, of Burlington, Iowa, was born in Canada of parents who were United States citizens, and was himself a United States citizen. On September 19, 1939, he enlisted in the Canadian Army, thereby losing his United States citizenship (54 Stat. 1169; 8 U. S. C. 801c). He was discharged from the Canadian Army on or about September 1, 1942, in London, England, in order that he might enlist in the United States Army, and on September 1, 1942, he did so enlist. On the same date he was repatriated as a United States citizen, taking the oath of allegiance before the American consul in London. He was honorably discharged from the United States Army in Paris, France, on November 23, 1946,

in the grade of private. Mr. Wilson states that upon his discharge he was advised by the military authorities that because of his enlistment in the Canadian Army he had lost his United States citizenship, and, therefore, was not entitled to a travel allowance from Paris to Burlington, Iowa. His original discharge certificate stated that he was not a United States citizen. A corrected certificate was issued on December 10, 1947, to rectify the error. After his discharge he proceeded at his own expense to London, England, where he was issued an American passport by the American Embassy. The record does not disclose how he traveled from Paris to a French Channel port, or what he paid for such travel. It appears that he obtained transportation across the Channel to Newhaven, England, without cost to him and that he paid \$3.50 for transportation from Newhaven to London. While there were at that time transports sailing from England to the United States no space was available thereon for about 3 months. He therefore booked passage by air from London to New York for himself and his minor son (whose mother later came to the United States), and left England by a commercial plane at his own expense (\$356.70 for himself and his son) on December 24, 1946. He states that he was ordered to leave England within 30 days after his arrival in that country and for that reason he had no alternative other than to proceed to the United States by air.

In February 1947 the Army Finance Department paid to Mr. Wilson the sum of \$9.15 for his land transportation from Paris to London under the authority of the act of August 2, 1946 (60 Stat. 853, 856; 10 U. S. C. 752), which provides, in pertinent part, as follows:

"An enlisted person of the Army \* \* \* upon discharge \* \* \* or relief from active duty, shall, \* \* \* receive a money allowance of 5 cents per mile for the distance from the place of discharge or release from active duty to his home, or place of acceptance for active duty, or place from which ordered to active duty, or such other place as may be determined to be most appropriate by the head of the department concerned."

Thereafter a claim was filed by Mr. Wilson with the General Accounting Office for travel pay from Paris to Burlington. By Certificate No. 1840970 dated April 25, 1950, Mr. Wilson was paid the sum of \$53.65, representing travel allowance at 5 cents a mile for the distance from Paris, France, to Le Havre, France (142 miles), and from New York to Burlington, Iowa (1,114 miles), or a total of \$62.80, less the amount of \$9.15 previously paid him for transportation from Paris to London. No amount could be paid to him for sea transportation from Le Havre or London to New York since the act of August 2, 1946, supra, further provides that:

"For sea travel involved in travel between place of discharge or release from active duty and place to which travel is authorized only transportation in kind and subsistence en route shall be allowed."

Mr. Wilson states that "The consular authorities in both London and Paris informed me that if I returned to the United States within 6 months of discharge, I would, upon presentation of my ticket stubs be able to claim a whole or part of my fare to the States."

It is clear that under the act of August 2, 1946, supra, the claimant was legally entitled to a travel allowance of 5 cents a mile for his land transportation between Paris, France, and Burlington, Iowa, and to transportation in kind and subsistence en route for the sea travel involved. As above stated, the travel allowance for the land travel between Paris and Burlington was allowed by the General Accounting Office on April 25, 1950 (certificate No. 1840970). Whether sea transportation in kind was refused by the military authorities in Paris, as alleged by the claimant, cannot now be verified, but it seems probable that such was the case, since no allowance was paid him at the time of his discharge on November 23, 1946, for the land travel involved, and both monetary allowance for land travel and sea transportation in kind were authorized by the same act.

It is impossible to determine at this late date why Mr. Wilson was refused a travel allowance for his land transportation to his home of record and transportation in kind for the sea travel involved, if such was in fact the case. If, as he alleges, such refusal was based on a mistaken belief on the part of the military authorities in Paris that the claimant was not an American citizen, it would appear that it should not have been at all difficult or have involved much delay to obtain from the American consulate in London verification of the fact that he had been repatriated on September 1, 1942.

While, as hereinbefore shown, it appears that the claimant was entitled to the travel allowance and sea transportation in question, he has now been paid the travel allowance, and there is no statute or appropriation under which he can be

reimbursed for the amount paid by him for transportation by air from London to New York. Furthermore, there exists considerable doubt as to whether the reason alleged by him for his failure to receive such travel allowance and sea transportation at the time of his discharge constituted the real reason or the whole reason for the refusal of such rights. In view of the impossibility of resolving this doubt at the present time, the Department of the Army prefers to make no recommendation either for or against the enactment of this bill and to leave to the equitable determination of the Congress the question whether relief should be granted in this case. Should the Congress determine that the claim is a meritorious one, the amount of the proposed award, \$336.17, would appear to be slightly excessive. Such amount was arrived at in the following manner:

Difference between amount spent by Mr. Wilson for travel between London and Chicago (\$356.70 from London to New York, and \$32.85 from New York to Chicago, or a total of \$389.55) and amount heretofore paid to him (\$62.80)-----	\$326. 75
Railway fare from Newhaven, England, to London-----	3. 50
Transportation from Chicago to Burlington-----	5. 92
<b>Total-----</b>	<b>336. 17</b>

The cost of Mr. Wilson's travel from Chicago to Burlington (\$5.92), however, was included in the amount of \$53.65 paid to the claimant under Certificate No. 1840970 dated April 25, 1950, and therefore should be deducted from the proposed award of \$336.17, which would leave \$330.25.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

FRANK PACE, Jr.,  
Secretary of the Army.

ASSISTANT COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington 25, April 13, 1950.

Mr. ROY F. WILSON,  
Burlington, Iowa.

DEAR MR. WILSON: Reference is made to your letter of March 11, 1950, forwarded to this Office by Hon. Thomas E. Martin, House of Representatives, requesting review of a settlement of this Office dated February 2, 1950, which disallowed your claim for travel allowance from London, England, to Burlington, Iowa, incident to your discharge from the Army.

You state that on September 1, 1942, you enlisted as an American citizen in the United States Army at London, England, after having been discharged for that purpose from the Canadian Army, and that you were informed at that time that you would be returned to the United States at the end of the war. However, you further state that you were discharged at Paris, France, as not being an American citizen (which error has since been corrected), and sent back to England, as a result of which you were forced to fly back to the United States at your own expense for which you claim reimbursement.

The Office of The Adjutant General of the Army has reported that you enlisted in the Army of the United States on September 1, 1942, at London, England, at which time you gave your home address as Burlington, Iowa; that you were honorably discharged in the grade of private on November 23, 1946, at Paris, France, and that it appears from the information of record that you were a citizen of the United States at the date of discharge. The record further shows that you have been paid travel allowance of \$9.15 computed upon the distance for land travel from Paris to London. Such payment appears to have been made under section 126 of the National Defense Act of June 3, 1916 (39 Stat. 217), as amended, and in effect prior to August 2, 1946, which provided that an enlisted man discharged from the Army, except by way of punishment for an offense, shall receive 5 cents per mile for the distance covering land travel from the place of discharge to the place of his acceptance for enlistment.

The said section was further amended by section 21 of the act of August 2, 1946 (60 Stat. 656), to read as follows:

"An enlisted person of the Army, Navy, Marine Corps, or Coast Guard, including Reserve components thereof, upon discharge except by way of punishment for an offense, retirement, or relief from active duty, shall, under such regulations as the head of the department concerned may prescribe for personnel under his jurisdiction, receive a money allowance of 5 cents per mile for the distance from



the place of discharge or release from active duty to his home, or place of acceptance for active duty, or place from which ordered to active duty, or such other place as may be determined to be most appropriate by the head of the department concerned. For sea travel involved in travel between place of discharge or release from active duty and place to which travel is authorized only transportation in kind and subsistence en route shall be allowed."

Pursuant to the foregoing section, regulations were issued by the Secretary of War as set forth in paragraph II, War Department Circular No. 325, dated November 5, 1946, reading in pertinent part:

"3. Pursuant to the provisions of paragraph 1 [which set forth the provisions of section 21 of the act of August 2, 1946, supra] travel pay on discharge, relief, or retirement will be paid to the places indicated below, subject to election by the enlisted person concerned:

\* \* \* \* \*  
 "e. Army of the United States, including the Women's Army Corps.  
 (1) To place of acceptance for enlistment or home \* \* \* \* \*

\* \* \* \* \*  
 "4. For sea travel involved in travel between place of discharge or release from active duty and place to which travel is authorized only transportation in kind and subsistence en route shall be allowed."

Under the above-quoted statute and regulations, you were entitled upon discharge to elect to be paid a travel allowance of 5 cents per mile for the land travel involved over the shortest usually traveled route either from Paris to London, the place of enlistment, or from Paris to Burlington, Iowa, your home of record at the date of enlistment. (See 28 Comp. Gen. 603.) In view of the circumstances appearing, it is assumed that had you been given an opportunity, you would have elected to receive travel allowance computed upon the distance to your home. Accordingly, a settlement will issue in your favor for the amount properly due, computed upon that basis, less the sum of \$9.15 which you already have been paid. There is no authority of law for reimbursement for the cost of transportation from Europe to the United States, nor for the payment of travel allowance covering the distance between such countries.

Very truly yours,

FRANK L. YATES,  
*Assistant Comptroller General of the United States.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
 Washington 25, May 31, 1950.

Hon. THOMAS E. MARTIN,  
*House of Representatives.*

MY DEAR MR. MARTIN: Further reference is made to your letter of April 20, 1950, wherein you request to be advised of the difference between the amount expended by Mr. Roy F. Wilson, 348 Roosevelt Road, Burlington, Iowa, for his transportation from Paris, France, to Burlington, Iowa, incident to his discharge from the Army of the United States on November 23, 1946, and the amount allowed him for such travel under present law.

The evidence of record shows that Mr. Wilson expended the total amount of \$389.55, of which sum \$356.70 represents payment for transportation of himself and his son, Master David Wilson, from London, England, to New York, N. Y., via Pan American World Airways System, on December 24, 1946, and \$32.85 for transportation from New York, N. Y., to Chicago, Ill., via United Air Lines, on December 25, 1946. The amount expended by Mr. Wilson for transportation from Paris, France, to London, England, and from Chicago, Ill., to Burlington, Iowa, is not of record in this Office.

Mr. Wilson has been allowed a total of \$62.80 for his transportation from Paris, France, to Burlington, Iowa, computed at 5 cents per mile for land travel from Paris, France, to Le Havre, France, 142 miles, and from New York, N. Y., to Burlington, Iowa, 1,114 miles. Therefore, the difference between the amount expended by Mr. Wilson for transportation and the amount allowed him would be \$326.75, plus the amount he expended for transportation from Paris, France, to London, England, and from Chicago, Ill., to Burlington, Iowa.

I trust this may serve the purpose of your inquiry.

Sincerely yours,

FRANK L. YATES,  
*Acting Comptroller General of the United States.*

the place of discharge or release from active duty to his home or place of residence, or from any other place from which ordered to return duty, or such other place as may be determined by the proper authorities, and that any transportation or travel between places of his duty or release from active duty, and other to which travel is authorized only transportation in kind and allowances on such travel, regulations were issued by the Secretary of War as set forth in paragraph 11, War Department Circular No. 325, dated November 5, 1916, and in pertinent parts:

"(1) The place of acceptance for enlistment or home

"(2) The place of discharge or release from

active duty and place to which travel is authorized only transportation in kind and allowances on such travel, shall be allowed.

Under the above-mentioned regulations, you were entitled upon discharge to travel to and from a place of residence of 5 miles from the place of discharge, or from Paris to Washington, D. C., in view of the circumstances of enlistment, (see 32 Comp. Gen. Inv. 1916). It is apparent, it is assumed that had you been given an opportunity, you would have elected to travel the travel allowance computed upon the distance of 5 out hours. Accordingly, a settlement will issue in your favor for the amount properly due, computed upon that basis, less the sum of \$2.15 which you already have been paid. There is no authority for the reimbursement for the cost of transportation from Europe to the United States, nor for the payment of travel allowance covering the distance between such countries.

Very truly yours,

FRANK J. YATES

Adjutant General of the United States

COMPTROLLER GENERAL OF THE UNITED STATES  
Washington 25, May 31, 1920.

Hon. Thomas H. Watson  
House of Representatives

My Dear Mr. Watson: Your reference is made to your letter of April 20, 1920, wherein you request to be advised of the difference between the amount expended by Mr. Wilson, 212, for travel from Washington, D. C., for the transportation from Paris, France, to Washington, D. C., in 1916, and the amount from the Army of the United States on November 23, 1916, and the amount allowed him for travel under present law.

The extent of record shows that Mr. Wilson expended the total amount of \$28,000, of which sum \$25,000 represents payment for transportation of himself and his wife, Mrs. Wilson, from Paris, France, to New York, N. Y., via the Transatlantic World Airways, from on December 24, 1916, and \$3,000 for transportation from New York, N. Y., to Chicago, Ill., via United Air Lines, on January 17, 1917. The amount expended by Mr. Wilson for transportation from Paris, France, to London, England, and from Chicago, Ill., to Washington, D. C., is not recorded in the Office.

Mr. Wilson has been allowed a total of \$25,000 for his transportation from Paris, France, to Washington, D. C., computed at a rate of \$1,000 per mile from New York, N. Y., to Paris, France, 1,115 miles, and from New York, N. Y., to Chicago, Ill., 115 miles. Therefore, the difference between the amount expended by Mr. Wilson for transportation and the amount allowed him would be \$3,000, and the amount he expended for transportation from Paris, France, to London, England, and from Chicago, Ill., to Washington, D. C.

I trust this may serve the purpose of your inquiry.

Sincerely yours,

FRANK J. YATES

Adjutant General of the United States